

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ALCOHOL AND DRUG COUNSELOR COMMITTEE
OF THE STATE BOARD OF MARRIAGE AND
FAMILY THERAPY EXAMINERS

IN THE MATTER OF THE
APPLICATION OF

MILTON EPPS

FOR CERTIFICATION TO PRACTICE
ALCOHOL AND DRUG COUNSELING
IN THE STATE OF NEW JERSEY

Administrative Action

**FINAL ORDER OF DENIAL
OF CERTIFICATION**

This matter was opened before the Alcohol and Drug Counselor Committee of the New Jersey State Board of Marriage and Family Therapy Examiners (hereinafter "the Committee") upon receipt of a completed application from Milton Epps, for certification as an Alcohol and Drug Counselor.

FINDINGS OF FACT

1. Milton Epps (hereinafter "the applicant") submitted an application for certification as an alcohol and drug counselor on or about July 8, 2004. As part of his application, the applicant responded "Yes" to question number ten (10) regarding whether he had been convicted of any criminal offense. If the answer is "Yes", the application requests that the applicant provide a copy of the judgment of conviction and a release from parole or probation and a complete explanation. The applicant answered the question "Yes" and submitted copies of judgements of conviction and a statement of explanation.

2. The applicant disclosed that he had a significant violent criminal history, including a robbery conviction in 1976 while he was armed with a "fake" gun.

3. The applicant appeared pro se before the Committee on December 19, 2005, and admitted his criminal history, his treatment for alcohol and drug addiction, and discussed his more than ten (10) years of recovery and rehabilitation and his work history.

4. The applicant subsequently submitted his Judgment of Conviction, dated November 27, 2006, for possession of controlled dangerous substance (cocaine) with intent to distribute, which states that the applicant entered a guilty plea on September 25, 2006.

CONCLUSIONS OF LAW

1. The applicant's past conviction for a violent crime and his recent conviction for possession of controlled dangerous substance (cocaine) with intent to distribute, provides grounds for the denial of a certification to practice alcohol and drug counseling, as these convictions constitute conduct relating adversely to the practice of alcohol and drug counseling, pursuant to N.J.S.A. 45:1-21(f).

2. The applicant's recent admission before the Court of his use of illegal drugs provides grounds for the denial of a certification to practice alcohol and drug counseling pursuant to N.J.S.A. 45:1-21(l), in that the applicant is presently engaged in drug or alcohol use that is likely to impair his ability to practice alcohol and drug counseling with reasonable skill and safety.

DISCUSSION

A Provisional Order of Denial of Certification based upon the above findings of fact and conclusions of law was issued by the Committee on or about July 3, 2007, and a copy served on the applicant. The Provisional Order was subject to finalization by the Committee at 5:00 p.m. on the 30th business day following entry unless the applicant requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal, setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting the applicant's request for consideration and reasons therefor.

The applicant submitted a letter dated July 27, 2007, in response to the Provisional Order for the Committee's consideration. In his letter, the applicant acknowledged that he understood that the denial of his application was based upon his criminal convictions as described in the Findings of Fact of the Provisional Order; however, the applicant requested that the Committee reconsider the denial, based upon: 1) the age of his conviction for robbery while armed with a "fake" gun, and 2) his assertion that he is: "no longer using drugs or alcohol" and is being tested by probation to confirm his abstinence. In addition, the applicant asserted in his letter that he, as "someone who has fallen prey to the power that these drugs can exhibit (sic) over ones life," was better equipped to teach others how best to avoid the sale and use of controlled dangerous substances. To bolster his response, the applicant enclosed a tape recording of his sentencing by the Honorable Harold W. Fullilove, J.S.C., and asked that the Committee review the tape.

Respondent's submissions were reviewed by the Committee, including the tape recording of the applicant's sentencing by Judge Fullilove. Standing before the Court convicted of selling cocaine, the applicant was asked by the Judge on November 27, 2006, whether he was currently using drugs. The applicant answered "yes." Although his response is technically not in conflict with the statement in his letter that he is "no longer" using drugs while on probation, the applicant's

admission before the Court places his drug use within the meaning of "presently," as that term is used in N.J.S.A. 45:1-21(l), wherein "presently" means: "at this time or any time within the previous 365 days." Moreover, the applicant's admission of his recent use of drugs is particularly adverse to acceptable standards of ethics, trustworthiness and competency required of a licensed and certified alcohol and drug counselor in order to provide quality treatment to persons recovering from alcohol and drug addiction.

Based on its review of the entire record, the Committee has determined that further proceedings are not necessary, and that no material discrepancies have been raised by the applicant's response. The Committee is not persuaded that the submitted materials merit further consideration, as applicant does not dispute the Findings of Fact or Conclusions of Law.

ACCORDINGLY, IT IS on this 13th day of September, 2007,

ORDERED that:

1. The applicant's certification to practice alcohol and drug counseling in the State of New Jersey be, and hereby is, denied; and
2. The Committee shall not entertain an application for certification from the applicant for a period of two (2) years. Such application shall affirmatively demonstrate clear and convincing evidence of rehabilitation. The application shall include an up-to-date report, signed and dated by a qualified mental health professional (with copy of the mental health professional's *curriculum vitae*) who was the applicant's primary counselor during treatment and recovery, regarding the applicant's compliance with a plan of recovery; a clinical opinion that the applicant is fit and able to re-enter the practice of alcohol and drug counseling; copies of any and all urine screenings that occurred since denial of certification; and a letter from the applicant's treating physician(s) listing all medications that are currently prescribed for the applicant, including the length of time each

physician has been prescribing each medication, the quantity and frequency prescribed, and reason for the prescription(s). The applicant shall also provide evidence of competence to practice alcohol and drug counseling.

In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

- a. the nature and responsibility of the position which the convicted person would hold, has held or currently holds, as the case may be;
- b. the nature and seriousness of the offense;
- c. the circumstances under which the offense occurred;
- d. the date of the offense;
- e. the age of the person when the offense was committed;
- f. whether the offense was an isolated or repeated incident;
- g. any social conditions which may have contributed to the offense; and
- h. any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in corrections work-release programs, or the recommendation of those who have had the person under their supervision.

ALCOHOL AND DRUG COMMITTEE OF THE NEW
JERSEY STATE BOARD OF MARRIAGE AND
FAMILY THERAPY EXAMINERS

By: Edward Reading
Edward Reading, LCADC
Committee Chair

Dated: